

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF MICHAEL STATEN § No. 161, 2010
FOR A WRIT OF MANDAMUS §

Submitted: April 7, 2010
Decided: April 20, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 20th day of April 2010, it appears to the Court that:

(1) The petitioner, Michael Staten, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Office of the Attorney General to conduct an investigation concerning the amount of time Staten has spent at Level V incarceration as a result of his March 16, 2006 conviction of drug charges in I.D. No. 0508018142. Staten ultimately seeks a recalculation of his sentence due to an alleged miscalculation by the Office of the Attorney General of the amount of Level V time served. The State of Delaware has filed an answer requesting that Staten's petition be dismissed. We find that Staten's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

¹ Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

(2) This Court will issue a writ of mandamus to a trial court only when the petitioner can demonstrate that there is a clear right to the performance of a duty, no other adequate remedy is available, and the trial court has failed or refused to perform its duty.² This Court's jurisdiction to issue a writ of mandamus is limited to instances where the respondent is a trial court or a judge of that court.³ The Attorney General is not a judicial officer.⁴

(3) There is no basis for the issuance of a writ of mandamus in this case. This Court has no jurisdiction to issue a writ of mandamus to the Attorney General. Staten's petition, therefore, must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991).

⁴ *In re Shockley*, Del. Supr., No. 182, 2005, Steele, C.J. (Aug. 16, 2005).